

Liju vs State of Kerala

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Court : Kerala

Decided On : Mar-10-2025

Judge : Honourable Mr.Justice C. Jayachandran

Appeal No. : Crl.MC/9263/2024

Appellant : LIJU

Respondent : State of Kerala

Judgement :

CRL.MC NO. 9263 OF 2024 1 2025:KER:23851

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C. JAYACHANDRAN
MONDAY, THE 10TH DAY OF MARCH 2025 / 19TH PHALGUNA, 1946
CRL.MC NO. 9263 OF 2024 CRIME NO.1/2020 OF Thenmala Police
Station, Kollam AGAINST THE ORDER/JUDGMENT IN SC NO.615 OF
2022 OF ASSISTANT SESSIONS COURT/SUB COURT AT PUNALUR,
KOLLAM. PETITIONERS/ACCUSED 1 TO 6:

1 LIJU AGED 33 YEARS S/O MENDEZ, PARAVILA PUTHENVEEDU,
40TH MILE, THENMALA P.O., THENMALA, KOLLAM DISTRICT, PIN -

691308 2 MUKESH AGED 35 YEARS S/O MURUGAN, LAKSHAM VEEDU, 40TH MILE, THENMALA P.O., THENMALA, KOLLAM DISTRICT, PIN - 691308 3 TIBU THOMAS AGED 27 YEARS S/O THOMAS KUTTY, RESIDING AT PARAVILA PUTHENVEEDU, 40TH MILE, THENMALA P.O., THENMALA, OLLAM DISTRICT, PIN - 691308 4 TONY THOMAS AGED 26 YEARS S/O THOMAS KUTTY, RESIDING AT PARAVILA PUTHENVEEDU, 40TH MILE, THENMALA P.O., THENMALA, KOLLAM DISTRICT, PIN - 691308

CRL.MC NO. 9263 OF 2024 2 2025:KER:23851 5 RAJESH AGED 25 YEARS S/O SASI, SHEEBA BHAVAN, 40TH MILE, THENMALA P.O., THENMALA, KOLLAM DISTRICT, PIN - 691308 6 ABDUL ASHIQUE AGED 27 YEARS S/O PEER MUHAMMED, ASHIQUE MANZIL, 40TH MILE, THENMALA P.O., THENMALA, KOLLAM DISTRICT, PIN - 691308 BY ADVS. NIRMAL V NAIR ANEES.T ELDHOMILAN THOMAS NITHIN SATHEESH RESPONDENTS/STATE/DEFACTO COMPLAINNAT AND INJURED:

1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 2 MRUDULA AGED 24 YEARS D/O BALAMURUGAN, MEENU BHAVANAM, GANDHI JUNCTION, 40TH MILE, THENMALA P.O., THENMALA, KOLLAM DISTRICT, PIN - 691308 3 BALAMURUGAN AGED 49 YEARS S/O MUTHUMANICKYAM, MEENU BHAVANAM (H), GANDHI JUNCTION, 40TH MILE, THENMALA P.O., THENMALA, KOLLAM DISTRICT, PIN - 691308 4 ANANDHU AGED 29 YEARS S/O SUDEVAN, CHARUVILA PUTHENVEEDU (H), ARYANKAVU MURI, ARYANKAVU VILLAGE, ARYANKAVU P.O, KOLLAM DISTRICT, PIN - 691309

CRL.MC NO. 9263 OF 2024 3 2025:KER:23851 5 MEENU AGED 29 YEARS W/O ANANDHU, CHARUVILA PUTHENVEEDU (H), ARYANKAVU MURI, ARYANKAVU VILLAGE, ARYANKAVU P.O,

KOLLAM DISTRICT, PIN - 691309 BY ADVS. ENCIL K. SABU AMMU
AJAY SRSI. C.N. PRABHAKARAN (SR.PP) THIS CRIMINAL MISC.
CASE HAVING COME UP FOR ADMISSION ON 10.03.2025, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING: CRL.MC NO.
9263 OF 2024 4 2025:KER:23851

C. JAYACHANDRAN, J.

----- Crl.M.C.No.9263 of 2024
----- Dated, this the 10th day of March, 2025

ORDER

A five Judges Bench of the Punjab and Haryana High Court in Kulwinder Singh and Others v. State of Punjab and Another [(2007) 4 CTC 769], framed broad guidelines as regards quashment of the criminal proceedings under Section 482 of the Code in respect of offences which are not compoundable in terms of Section 320 of the Code. One among the guidelines was that the offences against human body, other than murder and culpable homicide, may be permitted to be compounded, when the court is in a position to record a finding that the settlement between the parties is voluntary and fair. These guidelines were quoted with approval by a three Judges Bench of the Hon'ble Supreme Court in Gian Singh v. State of Punjab and another [(2012) 10 SCC 303]. Similarly in Narinder

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Singh and Others v. State of Punjab [(2014) 6 SCC 466], the Hon'ble Supreme Court has gone to the extent of sanctioning invocation of the inherent power under Section 482 of the Criminal Procedure Code to quash the F.I.R. in a crime alleging offence under Section 307, which is a heinous and serious offence. A practical approach is seen adopted by the Hon'ble Supreme in Madan Mohan Abbot v. State of Punjab [(2008) 4

SCC 582] as regards quashment in respect of offences like 379, 406, 409, 418, etc., the relevant findings of which are extracted herebelow:

6. We need to emphasise that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilised in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of

CRL.MC NO. 9263 OF 2024 6 2025:KER:23851 realities and bereft of the technicalities of the law.

2. In the facts at hand, petitioners are the

accused persons in Crime No.1/2020 of Thenmala Police Station, Kollam, now pending as S.C.No.615/2022 before the Assistant Sessions Court, Punalur. As per the final report the offences alleged are under Sections 143, 147, 148, 294(b), 341, 323, 324, 326, 354, 354B, 308 and 149 of the Indian Penal Code. The petitioners seek quashment of entire proceedings in the above case, on the strength of the settlement arrived at by and between the parties.

3. Heard the learned counsel for the petitioners, learned counsel for the respondent nos.2 to 5 and the learned Senior Public Prosecutor. Perused the records.

4. When this Crl.M.C was moved, this Court directed

to record the statements of the defacto complainant (2nd respondent herein) and the victims (respondents 3 to 5). The said direction was complied and their statements were handed over. On perusal of the same, it CRL.MC NO. 9263 OF 2024 7 2025:KER:23851

is clear that the issues between the petitioners, the defacto complainant and respondents 3 to 5 are settled amicably and that they are disinterested to continue with the prosecution case, any further and that they have no objection in quashing the criminal proceedings against the petitioners. That apart, it is noticed that, along with this Crl.M.C, affidavits have been sworn to by the defacto complainant (2nd respondent herein) and respondents 3 to 5 as Annexures-A3, A4, A5 and A6, wherein they would unequivocally state that the disputes have been amicably settled and that they do not want to continue with the case against the petitioners. They would also swear that they have no grievance against the petitioners and that they have no objection in quashing the criminal proceedings against the petitioners. The affidavits are sworn to on their own volition, without any compulsion, whatsoever. Learned Counsel for the respondents 2 to 5 would also endorse that the quashment sought for can be allowed. This Court, is therefore,

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convinced that the settlement arrived at is genuine and bonafide. In the context of quashment of the offence under Section 308, this Court noticed that Section 308 is alleged on the premise that an attempt of assault on the head of CW2 by an iron rod, if not warded off, would have caused serious injury. Therefore, merely because the prosecution had canvassed such an offence, the quashment sought for need not be refused.

5. In the light of the above referred facts, this

Court is of the opinion that the necessary parameters, as culled out in Narinder Singh (supra), Madan Mohan Abbot (supra) and Gian Singh (Supra), are fully satisfied. This Court is convinced that further proceedings against the petitioners will be a futile exercise, inasmuch as the disputes have already been settled. There is little possibility of any

conviction in the crime. Dehors the settlement arrived at by and between the parties, if they are compelled to face the criminal proceedings, the same, in the estimation of

CRL.MC NO. 9263 OF 2024 9 2025:KER:23851 this Court, will amount to abuse of process of Court. The quashment sought for would secure the ends of justice. This Court also notice that offences under Sections 341 and 323 are compoundable, which is all the more a reason to accept the compromise between the parties. In the circumstances, this CrI.M.C. is allowed. Annexure-A1 F.I.R., Annexure-A2 Final Report in Crime No.1/2020 and all further proceedings in S.C.No.615/2022 before the Assistant Sessions Court, Punalur, are hereby quashed.

Sd/- C. JAYACHANDRAN JUDGE ska CRL.MC NO. 9263 OF 2024 10 2025:KER:23851 APPENDIX OF CRL.MC 9263/2024 PETITIONER ANNEXURES Annexure A1 A TRUE COPY OF THE FIR DATED 1-1-2020 IN CRIME NO. 1/2020 OF THE THENMALA POLICE STATION Annexure A2 A TRUE COPY OF THE FINAL REPORT DATED 25-9- 2020 IN CRIME NO. 1/2020 OF THE THENMALA POLICE STATION Annexure A3 THE AFFIDAVIT DATED 28-10-2024 SWORN BY THE 2ND RESPONDENT Annexure A4 THE AFFIDAVIT DATED 28-10-2024 SWORN BY THE 3RD RESPONDENT Annexure A5 THE AFFIDAVIT DATED 28-10-2024 SWORN BY THE 4TH RESPONDENT Annexure A6 THE AFFIDAVIT DATED 28-10-2024 SWORN BY THE 5TH RESPONDENT

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